



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/944,850	10/06/1997	DAVID R. WALT	TU-97-01	1980

7590 07/23/2003

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP
FOUR EMBARCADERO CTR STE 3400
SAN FRANCISCO, CA 941114187

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliance With 37 CFR 1.192(c)	Application No. 08/944,850	Applicant(s) WALT ET AL.
	Examiner Constantine Hannaher	Art Unit 2878

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 23 April 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three TIME PERIODS: (1)ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer; (2) TWO MONTHS from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. A single ground of rejection has been applied to two or more claims in this application, and
 - (a) the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. Other (including any explanation in support of the above items):

The status of the claims is 1-38 cancelled, 39-48 pending and appealed. Anything more is superfluous. The summary of invention does not refer to any drawing, by reference characters or otherwise. The grouping of claims makes no reference to claim 43. The reference to claim 46 is pointless under 37 CFR 1.192(c)(7) as claim 46 is not subject to a ground of rejection "which applies to a group of two or more claims". Since claim 43 is not a part of any group, the omission of an argument under 37 CFR 1.192(c)(8)(iii) is apparent. The paragraph regarding claim 47 on page 10 does not explain why the claim is believed to be separately patentable as required by 37 CFR 1.192(c)(7). As the rule makes plain: Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.


Constantine Hannaher
Primary Examiner